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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,821	11/24/2003	Douglas B. Wilson	114089.120	5355
23483	7590	10/16/2007	EXAMINER	
WILMERHALE/BOSTON			LUONG, VINH	
60 STATE STREET			ART UNIT	PAPER NUMBER
BOSTON, MA 02109			3682	
			NOTIFICATION DATE	DELIVERY MODE
			10/16/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

michael.matthewson@wilmerhale.com  
teresa.carvalho@wilmerhale.com  
tina.dougal@wilmerhale.com

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10720821	11/24/2003	WILSON, DOUGLAS B.	114089.120

**EXAMINER**

Vinh T. Luong

ART UNIT	PAPER
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3682 20071011

**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

See attachment.

Vinh T. Luong  
Primary Examiner

### **INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement (IDS) filed September 24, 2007 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Applicant stated in the cover sheet of the IDS that a copy of Form PTO SB-08 was enclosed with the instant IDS. However, said Form has not been received.

2. The information disclosure statement filed September 24, 2007 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

Applicant stated that the instant IDS was being filed during the pendency of the appeal brief. The Examiner respectfully submits that the IDS was filed after final Office action on May 9, 2006. Therefore, Applicant is required to submit a statement under 37 CFR 1.97(e) and the fee set forth in 37 CFR 1.17(p). See 37 CFR 1.97(d) and MPEP 609. In the instant case, Applicant did not submit the required statement under 37 CFR 1.97(e). As noted in the

Supplementary European Search Report, the date of the citation of the EPO was October 24, 2006, i.e., more than three months from the filing date of the above IDS.

**RESPONSE TO NOTIFICATION OF NONCOMPLIANT  
APPEAL BRIEF (37 CFR 41.37) IN RELATED APPLICATION  
ON APPEAL: US PATENT APPL. SER. NO. 10/727,306**

Applicant's response to the Notice of Noncompliant Appeal Brief in Application No. 10727306 is immaterial to the formalities of the appeal in this application. Hence, the Examiner respectfully submits that no comment is deemed necessary.

**COMMUNICATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Luong

October 10, 2007



Vinh T. Luong  
Primary Examiner